

**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

In the Matter of:

MONICA ANN MILLER,

Respondent.

)
)
) Case No. 11-0223247C
)
)

CONSENT ORDER

John M. Huff, Director of the Department of Insurance, Financial Institutions and Professional Registration takes up the above-referenced matter for consideration and disposition. The Consumer Affairs Division, through counsel, Carolyn H. Kerr, and Respondent Monica Ann Miller have reached a settlement in this matter and Respondent has consented to the issuance of this Consent Order.

Findings of Fact

1. John M. Huff is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration ("Department") whose duties, pursuant to Chapters 374 and 375 RSMo, include supervision, regulation, and discipline of insurance producers.

2. The Consumer Affairs Division of the Department has the duty of conducting investigations into the unfair or unlawful acts of insurance producers and companies under the insurance laws of this state and has been authorized by the Director to initiate this action before the Director to enforce the insurance laws of this state.

3. The Department originally issued Respondent Monica Ann Miller ("Miller") an insurance producer license (No. 0348880) on June 1, 2005. Miller's license is currently active and will expire on June 1, 2011.

4. The Consumer Affairs Division seeks to discipline Miller's insurance producer license and alleges the following regarding Miller:

- a. On March 31, 2010, the Department received notice from Farmers Insurance Group ("Farmers") that Miller's appointments with nine of its affiliated companies had been cancelled effective March 2, 2010, based on Miller's misappropriation of premiums;
- b. In a February 23, 2010 statement made to Farmers, Miller admitted to using cash premiums that she collected from her insurance customers for personal and/or business uses, and that she did not remit premiums in the total amount of \$9,576.76 to Farmers as required by her fiduciary duty under § 375.051.2, RSMo and 20 CSR 700-1.140(1)(D);
- c. On July 12, 2010, the Kansas Commissioner of Insurance issued an order ("Kansas Order") revoking Miller's Kansas Resident Insurance

Agent's License. *In the Matter of the Kansas Resident Insurance Agent's License of Monica Ann Miller*, Summary Order, Docket No. 4172-SO. The Order became effective August 9, 2010;

- d. Miller failed to report the administrative action taken against her by the Kansas Insurance Department to the Department within 30 days of the final disposition of the matter, as required by § 375.141.6;
- e. On April 2, 2010, Special Investigator Dennis Fitzpatrick mailed Miller a letter by first class mail to her address of record requesting information about the allegations made by Farmers Insurance Group against her;
- f. On April 31, 2010, Miller responded to Special Investigator Dennis Fitzpatrick's letter admitting to the allegations against her. Specifically, Miller stated that, "The allegations by Farmers Insurance are correct. I did mishandle money belonging to the Company.... What I did was not right nor do I justify my actions. I was wrong in doing so."

5. In light of these facts, Miller's insurance producer license is subject to discipline on the following grounds:

- a. By failing to report to the Director administrative action taken against her in another jurisdiction or by another governmental agency within 30 days of the final disposition of that matter as required by

§375.141.6, Miller violated an insurance law or regulation, which is a ground for discipline pursuant to § 375.141.1(2), RSMo (Supp. 2010)¹;

- b. By failing to remit premium payments associated with personal insurance policies to Farmers within 30 days of receipt, as required by § 375.051.2 and 20 CSR 700-1.140(1)(D), Miller not only violated her fiduciary duties to the policyholders from whom she received the premium payments and the insurer to whom she owed the payments, but also violated insurance laws or regulations, which is a ground for discipline pursuant to § 375.141.1(2);
- c. Miller improperly withheld, misappropriated, or converted moneys or properties received in the course of doing insurance business, which is grounds to discipline her Missouri insurance producer license pursuant to § 375.141.1(4);
- d. Miller used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere, which is grounds to discipline her Missouri insurance producer license pursuant to § 375.141.1(8);
- e. Miller's insurance producer license, or its equivalent, was revoked in the state of Kansas, which is a ground to discipline Miller's insurance producer license pursuant to § 375.141.1(9).

¹ All statutory references are to RSMo (Supp. 2010) unless otherwise indicated.

6. Section 375.141 provides, in relevant part:

1. The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

* * *

(2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

* * *

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

* * *

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

* * *

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

* * *

6. An insurance producer shall report to the director any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. This report shall include a copy of the order, consent order or other relevant legal documents.

7. Section 375.051.2 states:

Any insurance producer who shall act on behalf of any applicant for insurance or insured within this state, or who shall, on behalf of any applicant for insurance or insured, seek to place

insurance coverage, deliver policies or renewal receipts and collect premiums thereon, or who shall receive or collect moneys from any source or on any account whatsoever, shall be held responsible in a trust or fiduciary capacity to the applicant for insurance or insured for any money so collected or received by him or her.

8. Title 20 CSR 700-1.140(1)(D), states as follows:

Insurance producers shall remit all premium payments associated with a personal insurance policy to those persons entitled to them as soon as is reasonably possible after their receipt by the licensee, but in no event later than thirty (30) days after the date of receipt, provided, however, that premiums may be remitted at a later point in time if the licensee is so authorized under a written agreement between the licensee and the person legally entitled to the premiums. In no event, however, shall a licensee retain premium payments if to do so will result in the failure to obtain or continue coverage on behalf of an insured or prospective insured.

9. On or about March 21, 2011, counsel for the Consumer Affairs Division sent to Miller a settlement offer with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of documents which are the basis thereof. Counsel for the Consumer Affairs Division advised Respondent Miller that she had 60 days to review the materials provided and consider the proposed settlement offer.

10. Miller acknowledges that she has been advised that she may, either at the time the settlement agreement is signed by the parties or within 15 days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties to the settlement constitute grounds for disciplining Miller's license.

11. Miller admits to the facts alleged by the Consumer Affairs Division and outlined in this Consent Order. Miller agrees that these facts constitute grounds to discipline her insurance producer license.

12. Miller further acknowledges that she understands she has the right to consult an attorney at her own expense.

13. Except as agreed to and provided in Paragraph 10, Miller stipulates and agrees to waive any rights that she may have to a hearing before the Administrative Hearing Commission, the Director or Department, and any rights to seek judicial review or other challenge or contest the terms and conditions of this Order and forever releases and holds harmless the Department, the Director and his agents, and the Consumer Affairs Division from any and all liability and claims arising out of, pertaining to or relating to this matter.

14. Each signatory to this Consent Order certifies by signing that he or she is fully authorized, in his or her own capacity, or by the named party he or she represents, to accept the terms and provisions of this Consent Order in their entirety, and agrees, in his or her personal or representational capacity, to be bound by the terms of this Consent Order.

Conclusions of Law

15. The allegations raised by the Consumer Affairs Division are grounds to discipline Miller's Missouri insurance producer license pursuant to §§ 375.141.1(2), (4), (8), and (9).

16. The Consumer Affairs Division is authorized to settle this matter and the Director is authorized to issue this Consent Order in the public interest pursuant to § 621.045 RSMo and § 536.060 RSMo (2000).

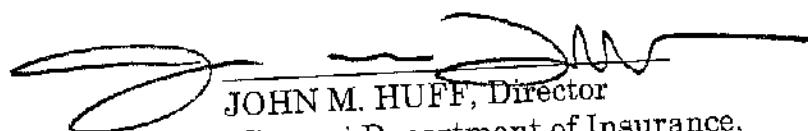
17. The terms set forth in this Consent Order are an appropriate disposition of this matter and entry of this Consent Order is in the public interest.

ORDER

IT IS ORDERED THAT Respondent Monica Ann Miller's non-resident insurance producer license (No. 0348880) is hereby revoked.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 26th
DAY OF APRIL, 2011.




JOHN M. HUFF, Director
Missouri Department of Insurance,
Financial Institutions & Professional
Registration

CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Respondent Monica Ann Miller has a right to a hearing, but that Respondent Miller waived the hearing and consented to the issuance of this Consent Order.


Monica Ann Miller

111 S. Chicopee Rd.
Pittsburg, KS 66762
Telephone: (620) 231-6193

04/12/2011
Date

Respondent

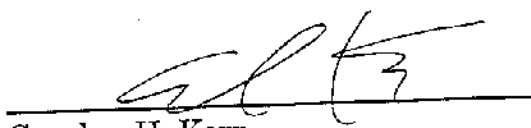
Counsel for Respondent

Date

Missouri Bar No. _____

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4-22-11
Date